



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

October 10, 2024

By ECF

Hon. Stewart D. Aaron
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *Burton, et al. v. United States of America, et al.*, No. 18 Civ. 2039 (JHR) (SDA)

Dear Judge Aaron:

This Office represents the remaining defendants (the “Government”)¹ in this case, which arises from the death of Franklin Sanchez, a Colombian national who died while in custody at the MCC in March 2015. The case is before Your Honor for all general pretrial matters. We write respectfully, on behalf of all parties, to seek an extension of the fact discovery deadline from October 11, 2024, to November 8, 2024, for the limited purpose of continuing the deposition of plaintiff Madga Liliana Martinez Acosta (“Ms. Martinez”) in light of recently produced material and to permit service of a deposition transcript errata sheet, as explained below.

Fact discovery in this case currently closes on October 11, 2024. (ECF No. 168.) Ms. Martinez, who resides in Colombia, was deposed in May 2024. On September 11, 2024, Plaintiffs produced a PDF copy of a notebook with pages of what appear to be Ms. Martinez’s handwritten notes relevant to this case. In light of this production, the parties have agreed that the Government may reopen the deposition of Ms. Martinez. However, the parties were unable to schedule this continued deposition on a date in advance of the October 11 deadline, in large part because the deposition will be conducted virtually, with Ms. Martinez in Colombia, and this Office did not receive permission from the Colombian Central Authority to take the deposition, pursuant to Article 17 of the Hague Convention on the Taking of Evidence Abroad, until October 8. The parties have conferred and determined that November 8, 2024, is a mutually agreeable date, and accordingly respectfully request that fact discovery be extended for the purpose of permitting the continued deposition of Ms. Martinez on that date.

¹ Specifically, this Office represents defendant the United States of America, which is sued under the Federal Tort Claims Act, and defendants Anthony Bussanich, Robert Beaudouin, Ysmael Joaquin, Kimberly Shivers, Lorenzo Barazza, Gerald Castillo, Wilson Silva, Quentin Holzendorf, Terrence Thomas, Rosalind Silvia, and Shaadiq Shakir, who are current or former employees of the Bureau of Prisons sued in their individual capacity under *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971).

In addition, due to court reporter error, portions of defendant Terrence Thomas's deposition transcript were not recorded and could not be certified. There is a rough version of these portions of the transcript, but certain answers were not captured. The parties have agreed that Mr. Thomas can review and correct the uncertified portions and provide any uncaptured testimony via an errata sheet. The parties respectfully request that Mr. Thomas be permitted to provide this errata sheet by November 8, 2024.

Finally, Plaintiffs wish to update the Court that the letters rogatory issued by this Court at the request of Plaintiffs were served upon the relevant authority in Mexico on August 16, 2024, requesting to depose non-party witness and Mexican national Leyrani Gomez. Plaintiffs have not yet received a response.

We thank the Court for its consideration of this request.

Respectfully,

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Southern District of New York

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